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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/306,510
Filing Date: May 07, 1999
Appellant(s): SHCROTT ET AL.

Frederick E. Cooperrider
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/20/2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 21-24 are allowed.

Claims 25-26, 28, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

This appeal involves claims 1-2, 4-6, 8-14, 15-16, 18-20, and 27.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) **Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) **Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

5886634	Muhme	3-1999
6393339	Yeadon	05-2002
5984388	Bacon	11-1999
6297727	Nelson, Jr.	10-2001
4471343	Lemelson	09-1984
4881061	Chambers	11-1989
5745036	Bowers et al.	03-1999
5745036	Clare	04-1998

(9)) ***Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-7, 10, 15, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muhme U.S Patent 5886634 and in view of Yeadon U.S Patent 6393339.

Regarding claim 1, Muhme teaches a system for preventing the theft of an object (figure 1), comprising;

an electronic article surveillance (EAS) device (20) operatively attached to an object (12), a security path for detection of the EAS device (col. 2 lines 50-53), the security path including a security gate (16);

a reader (18) operatively coupled to the security path (col. 3 lines 26-27) and associated with the security gate (figure 1);

an user identification card being read by the reader (col. 3 lines 4-7).

Muhme further teaches disabling the security gate without disabling the tag device by deactivating a lock (col. 4 lines 6-15). Muhme teaches triggering an alarm by the EAS device when a person is unauthorized to move an object through the security gate and also teaches the turning off of the alarm by the base station (18) (col. 8 lines 11-14) and the base station is control by a computer (col. 3 lines 43-51) but is however silent on teaching a smart card containing an identification profile of an authorized user and the disabling of the security gate if a person

entering the security path is authorized to remove the object. Yeadon in an art related Computerized Stock Control System invention teaches a smart card with user identification information that enables the removal of articles from a dispensing station (col. 5 line 67- col. 6 line 1).

It would have been obvious to one of ordinary skill in the art to have a smart card containing an identification profile of an authorized in Muhme as evidenced by Yeadon because Muhme suggests an security system with an EAS device and Yeadon teaches the use of a smart card with user identification information that enables the removal of an object from a secured area in order to provide a more secure system.

Regarding claim 4, Muhme teaches an EAS device comprises a radio frequency tag (col. 3 lines 22).

Regarding claim 5, Muhme teaches the gate incorporating an interrogation zone (col. 3 lines 12-15) and identifying a user by using a card reader to read the user's identification information (col. 3 lines 16-17). The gate is therefore built integrally with the reader because the gate is operated based on the information read by the card reader.

Regarding claim 6, Muhme teaches a database (38) including information regarding authorized user (col. 5 lines 14-15).

Regarding claim 10, Muhme teaches a storage device (38) database containing information regarding authorized user (col. 3 lines 46-47).

Regarding claim 15, Muhme teaches a system for preventing the theft of an object (figure 1), comprising;

an electronic article surveillance (EAS) device (20) operatively attached to an object (12), a security path for detection of the EAS device (col. 2 lines 50-53), a reader (18) operatively coupled to the security path (col. 3 lines 26-27) and associated with the security gate (figure 1);

an user identification card being read by the reader (col. 3 lines 4-7). Muhme further teaches disabling the security gate without disabling the tag device by deactivating a lock (col. 4 lines 6-15). Muhme also teaches the turning off of the alarm by an authorized person subsequent to the activation of the alarm (col. 8 lines 11-14) but is however silent on teaching a smart card containing an identification profile of an authorized user. Yeadon in an art related Computerized Stock Control System invention teaches a smart card with user identification information that enables the removal of articles from a dispensing station (col. 5 line 67- col. 6 line 1).

It would have been obvious to one of ordinary skill in the art to have a smart card containing an identification profile of an authorized in Muhme as evidenced by Yeadon because Muhme suggests an security system with an EAS device and Yeadon teaches the use of a smart card with user identification information that enables the removal of an object from a secured area in order to provide a more secure system.

Regarding claim 18, Muhme teaches an EAS device comprises a radio frequency tag (col. 3 lines 22).

Regarding claim 19, Muhme teaches the gate incorporating an interrogation zone (col. 3 lines 12-15) and identifying a user by using a card reader to read the user's identification information (col. 3 lines 16-17). The gate is therefore built integrally with the reader because the gate is operated based on the information read by the card reader.

Regarding claim 20, Muhme teaches providing a computer with a database regarding information of the authorized user (col. 3 lines 46-47) and coupling an alarm to the security path (figure 1).

Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muhme U.S Patent 5886634 in view of Yeadon U.S Patent 6393339 and further in view of Bacon U.S Patent 5984388.

Regarding claims 2 and 16, Muhme in view of Yeadon teaches the use of a magnetic tag (20) for identification purposes but is silent on the teaching of an acousto-magnetic tag. Bacon in an art related EAS tag invention teaches the use of an acousto-magnetic tag to secure an article (col. 4. line 9).

It would have been obvious to one of ordinary skill in the art to use an acousto-magnetic tag in Muhme in view of Yeadon as evidenced by Bacon because Muhme in view of Yeadon suggests the use of a magnetic type tag and an alarm sound is produce when an activated tag passes through a controlled exit. An acoustic-magnetic tag as evidenced by Bacon is a magnetic tag that gives rise to an acoustic signal due to magnetic excitation. An acousto-magnetic tag is therefore compatible with Muhme in view of Yeadon in that the tag is excited magnetically and a sound is produce from the magnetically excitation of the tag.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muhme U.S Patent 5886634 in view of Yeadon U.S Patent 6393339 and further in view of Nelson, Jr. U.S Patent 6297727.

Regarding claim 8, Muhme. in view of Yeadon is silent on teaching a video receiver operatively coupled to the security path and the video receiver is activated upon interrogating the EAS device. Nelson, Jr. in an art related Transponder Identification And Record Assembly invention teaches the enhancement of an article surveillance system by using a video record to the transportation of an item through a security gate (col. 10 lines 18-24).

It would have been obvious to one of ordinary skill in the art to have a video receiver operatively coupled to the security path and the video receiver is activated upon interrogating the EAS device in Muhme in view of Yeadon as evidenced by Nelson, Jr. because Muhme in view of Yeadon suggests a EAS system for ensuring the passage of an article through a security gate by authorize persons only and Nelson, Jr. teaches having a video receiver to record a person transporting an item without authorization through a security gate in order to have evidence of an unauthorized person transporting an object through a security gate.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muhme U.S Patent 5886634 and in view of Yeadon U.S Patent 6393339 and further in view of Lemelson U.S Patent 4471343.

Regarding claim 9, Muhme teaches an authorized user is allowed free passage when the user exhibit an identification card (col. 3 lines 4-7) but is silent on teaching the authorized person exhibiting a smart card. Yeadon in an art related Computerized Stock Control System invention teaches a smart card with user identification information that enables the removal of articles from a dispensing station (col. 5 line 67- col. 6 line 1).

It would have been obvious to one of ordinary skill in the art for an authorized person to exhibit a smart card in Muhme as evidenced by Yeadon because Mhume suggests the use of an

identification card with user identification information and Yeadon teaches an identification card in the form of a smart card with user identification information that enables the removal of an object from a secured area in order to enhance the security of the antitheft system.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muhme U.S Patent 5886634 and in view of Yeadon U.S Patent 6393339 and further in view of Chambers U.S Patent 4881061.

Regarding claim 11, Muhme in view of Yeadon teaches providing egress and ingress information (col. 3 lines 48-50) but is silent on teaching recording the time and date and user identity relating to passage through the security path. Chambers in an art related Article removal Control System teaches a system for preventing the theft of an object that records the time and date and user identity relating to passage through the security path (col. 4 lines 7-9).

It would have been obvious to one of ordinary skill in the art to record the time and date and user identity relating to passage through the security path in Muhme in view of Yeadon because Muhme in view of Yeadon suggests providing egress and ingress information in an article removal system and Chambers teaches a system for preventing the theft of an object that records the time and date and user identity relating to passage through the security path.

Regarding claims 12 and 13, Muhme in view of Yeadon teaches a contact-less card (figure 1) but is silent on teaching the use of a direct contact smart card. Chambers in an art related Article removal Control System teaches the use of contact-less card reader such as optical

scanner (col. 4 lines 8-11) but also teaches the replacement of optical card reader with other card reader that requires passing the card over the card reader (direct contact) (col. 8 lines 21-26).

It would have been obvious to one of ordinary skill in the art to use a direct contact smart card in Muhme in view of Yeadon because Muhme in view of Yeadon suggests using a contact-less card and Chambers teaches replacing a non-contact card with a direct contact card.

Regarding claim 14, Muhme is silent on teaching a smart card comprising a magnetic strip. Yeadon in an art related Computerized Stock Control System invention teaches a smart card with user identification information that enables the removal of articles from a dispensing station (col. 5 line 67- col. 6 line 1) but is silent on teaching the use of a magnetic strip on the smart card. The use of magnetic strip on an identification card represents a conventional practice as evidenced by Chambers (col. 8 lines 22-23).

It would have been obvious to one of ordinary skill in the art to have a smart card with a magnetic strip in Muhme as evidenced by Yeadon in view of Chambers because Muhme in view of Yeadon suggests providing a smart card with user identification information that enables the removal of an object from a secured enclosed area. Smart cards further provide additional security to the antitheft system. The use of magnetic strip on an identification card represents a conventional practice as evidenced by Chambers.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muhme U.S Patent 5886634 in view of Yeadon U.S Patent 6393339 in view of Nelson, Jr. U.S Patent 6297727 and further in view of Clare U.S Patent 5745036.

Regarding claim 27, Muhme. in view of Yeadon in view of Nelson, Jr. teaches activating an alarm when an unauthorized person attempt to remove an object and capturing a video image

when an alarm is activated (col. 4 lines 16-20, U.S Patent 5886634) and (col. 10 lines 18-24, U.S Patent 6297727) but is silent on teaching a video image is capture each time the alarm is turned off and when the smart card includes the identification profile of the authorized user. One skilled in the art recognizes that it is conventional practice to video taped (using a video camera) all egress and ingress activities at a security gate as is evidenced by Clare (col. 7 lines 40-46) and the taping of all the activities at the security gate includes capturing a video image each time the alarm is turned off and when the smart card includes the identification profile of the authorized user.

It would have been obvious to one of ordinary skill in the art to capture a video image each time the alarm is turned off and when the smart card includes the identification profile of the authorized user in Muhme in view of Yeadon in view of Nelson, Jr. as evidenced by Clare because Muhme in view of Yeadon in view of Nelson, Jr. suggests activating an alarm when an unauthorized person attempt to remove an object and capturing a video image when an alarm is activated and one skilled in the art recognizes that it is conventional practice to video taped all egress and ingress activities at a security gate as is evidenced by Clare and the taping of all the activities at the security gate includes capturing a video image each time the alarm is turned off and when the smart card includes the identification profile of the authorized user.

(10) Response to Argument

Regarding appellant's argument regarding claim 1 on page 8, Muhme teaches a tag (20) attached to an object (12) and a user identification card for providing identification of the person transporting the object (col. 3 lines 4-7). Muhme also teaches the use of various identification means (col. 4 lines 3-11). The reference of Yeadon is relied upon for teaching the use of smart

card as an identifying means that enables the removal of articles from a secure area (col. 5 line 67-col. 6 line 1). It would have been therefore obvious to one of ordinary skill in the art use a smart card in Muhme because Muhme teaches the use of an identification card and Yeadon teaches the use of a smart card as an identification card.

Regarding appellant's argument regarding claim 8 on pages 9 and 13, the reference of Muhme teaches monitoring the transport of object through a security gate (col. 2 lines 50-53) and the reference of Nelson, Jr. teaches the enhancement of an article surveillance system by using a video record to record an unauthorized person transporting an item through the security gate (col. 10 lines 18-24). The process of determining whether or not a person is authorized to carry an item through a security gate involves the interrogation of the EAS device (col. 6 lines 8-25). The video receiver is therefore activated upon integrating the EAS device in order to capture the unauthorized person transporting the object through the security gate. The motivation to combine the reference of Nelson, Jr. with the reference of Muhme is provided by the reference of Nelson, Jr. by stating that the an article surveillance system is enhanced by using a video tape to record the transportation of items through the security gate.

Regarding appellant's argument regarding claims 12-14 on page 9, the reference of Chambers provides the motivation for using direct contact smart card because Chambers teaches the use of contact less card readers (col. 4 lines 8-11) and further teaches the replacement of contact less card reader with readers that requires passing the card over the card reader (direct contact) (col. 8 lines 21-26). Chambers also teaches the use of a magnetic strip on an identification card (col. 8 lines 22-23). Chambers provides the motivation for using a direct contact identification card by teaching the alternative use of contact-less and direct contact card

readers to facilitate the use of contact-less identification card and direct contact identification card.

Regarding appellant's argument regarding the reference of Muhme teaching away from the combination of identification cards as claimed, Muhme teaches the disadvantages of using an identification card as the only means of preventing the unauthorized transport objects through a security gate (col. 1 lines 15-21). Muhme teaches using an identification card in association with another identifying means such as a tag (col. 3 lines 4-10). The recitation of Muhme (col. 1 lines 15-21, col. 2 lines 4-7) therefore teaches the use of identification card in a security system. The reference of Mhume does not teach away from the claimed invention but when combined with the other prior art of record teaches the invention as claimed.

Regarding appellant's argument regarding claim 27 on page 14, the reference of Clare is relied upon for teaching the video taping of all activities at a security gate (col. 7 lines 40-46) and the taping of all the activities at the security gate includes capturing a video image each time the alarm is turned off and when the smart card includes the identification profile of the authorized user. The motivation for taping the activities at a security gate is further provided by the reference of Nelson, Jr. by teaching the enhancement of a article surveillance system by using a video record to record the transportation of an item through a security gate (col. 10 lines 18-24). Regarding appellant's argument regarding the plain meaning of claim 27 on pages 7, claims in a pending application should be given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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August 8, 2005

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